IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

Bail Appl..No. 4813 of 2007()

CRMP.2174/2007 of D.C. & SESSIONS COURT,KOLLAM
CRIME NO.404/05 OF KADAKKAL POLICE STATION

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PETITIONER/ACCUSED:

ABDUL RAHIM ISHAK, AGED 50,
JASMIN MANZIL, PALLIMUKKU, ANAPPARA VILLAGE,
KADAKKAL, KOLLAM.

BY ADV. SRI.A.AHZAR

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
KADAKKAL POLICE STATION, KADAKKAL.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4813 of 2007

Dated this the 9th day of August 2007

O R D E R

Application for anticipatory bail. The petitioner is alleged to have committed rape on a home nurse who was brought to his residence to attend on his ailing mother. The de facto complainant is a woman aged about 30 years. She was allegedly taken from the home nursing agency to the house of the petitioner on 6/6/2005. She was allegedly subjected to rape on the very first day. She continued to work as home nurse in the house of the petitioner till 30/6/2005. By then three further instances of rape were also allegedly committed by the petitioner. The de facto complainant did not raise any grievance. She ultimately raised a complaint before the Madam of the Home Nursing Agency on 15/8/2005. Accordingly, a complaint dated 20/8/2005 was filed before the police. Crime has been registered. Investigation is in progress. The petitioner has not been arrested so far. The petitioner now apprehends arrest. He had come to this court earlier with an application to quash the F.I.R. That petition was dismissed as per Annexure III order by this court. Certain observations were made. Encouraged by those observations, the petitioner approached the learned Sessions Judge for anticipatory bail. The same having been dismissed, the petitioner has come to this court repeating the prayer for anticipatory bail.

2. The learned counsel for the petitioner prays, the learned Public Prosecutor does not oppose the said prayer and I am satisfied - in the facts and circumstances to which I have made brief reference already, that this is an eminently fit case where directions under Section 438 Cr.P.C can be issued in favour of the petitioner. I shall scrupulously avoid any detailed discussion on merits about the acceptability of the allegations or the credibility of the data collected. Appropriate conditions can of course be imposed in the interests of a fair, efficient and expeditious investigation.

3. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 20/08/2007 (as it is submitted that the petitioner is not available in the State now).

ii) He shall be released on regular bail on condition that he executes a bond for Rs.50,000/-(Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 4 p.m on 21/08/2007, 22/8/2007 and 23/08/2007. During this period, the investigator shall be entitled to interrogate the petitioner in custody and recovery, if any, can be effected. Medical examination of

the petitioner can be conducted also during this period. Thereafter the petitioner shall make himself available for interrogation on all Mondays and Fridays between 10 a.m and 12 noon for a period of forty five days and subsequently as and when directed by the investigating officer in writing to do so.

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(v) If he were arrested prior to 20/8/2007, he shall be released from custody on his executing a bond for Rs.50,000/- (Rupees fifty thousand only) without any sureties, undertaking to appear before the learned Magistrate on 20/08/2007.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007